

MINUTES

WARRICK COUNTY AREA PLAN COMMISSION

Regular meeting held in Commissioners Meeting Room,
Third Floor, Historic Court House,
Boonville, IN
Monday, August 8, 2011, 6:00 PM

PLEDGE OF ALLEGIANCE A moment of silence was held followed by the Pledge of Allegiance.

MEMBERS PRESENT: Guy Gentry, President; Mike Moesner, Brad Overton, Marlin Weisheit, Larry Willis and Judy Writsel.

Also present were Morrie Doll, Attorney, Sherri Rector, Executive Director and Sheila Lacer and Kristina Lockhart, Staff.

MEMBERS ABSENT: Amanda Bailey

Roll call was taken and a quorum declared present.

MINUTES: Upon a motion made by Larry Willis and seconded by Mike Moesner the Minutes of the Executive Session held June 13, 2011 were approved as circulated. Upon a motion made by Larry Willis and seconded by Judy Writsel, the Minutes of the Regular Session held June 13, 2011 were approved as circulated. Upon a motion by Larry Willis and seconded by Mike Moesner, the Minutes of the Regular Session for July 11, 2011, were approved as circulated.

The President explained the Rules of Procedure to the audience.

SUBDIVISIONS FOR PRIMARY PLAT APPROVAL

PP-11-06 - A & B Industrial Subdivision by Applicant and Owners A & B Investments, Brent Holweger, Partner and Terminal Properties, LLC, Tom Bennet, Partner. A Subdivision of Lot 1 of Wagner Minor Sub recorded in Warrick County Recorder's Office in Doc. # 2001R-008150 and Lot 2 of D & K Tanks Minor Sub recorded in Warrick County Recorder's Office in Doc. #2009R-012232, Ohio Twp. 11.29 acres located on the S side of Boonville Hwy approximately 1650' W of the intersection formed by Boonville Hwy (S 50) & Stevenson Station Rd. (W 1025). Complete legal on file. *Advertised in the Boonville Standard July 28, 2011.*

Mrs. Rector stated that no one was present for the Drainage Board or Commissioners Meeting and they are not present for this meeting.

The President stated they do need to remember this property is in non-compliance so he would recommend in the tabling motion that they consider directing the Attorney or Executive Director

to send a letter to them that they must be present at the next meeting (September 12, 2011) or they will have to take action.

Mike Moesner made a motion to table A & B Industrial Subdivision and send a strongly worded letter they need to be present at the next meeting. The motion was seconded by Marlin Weisheit and unanimously carried.

REZONING PETITIONS:

PC-R-11-04 – Petition of Brandi J. Laskowitz. OWNERS: Brandi J. Laskowitz, Jason W. Boyle, Raymond C. Laskowitz, and Rhonda Laskowitz To rezone 5.121 acres located on the south side of Ridgeview Avenue approximately 0 feet East of the intersection formed by Ridgeview Avenue and Blesch Circle. Greer Twp. from “R-1A” One Family Dwelling Zoning District to “A” Agriculture Zoning District with a Use and Development Commitment. Complete legal on file. *Advertised in the Boonville Standard June 2, 2011. No recommendation from Plan Commission June 13, 2011. Referred back to Plan Commission by County Commissioners on July 11, 2011 to allow amendment of acreage from 5.21 acres to 4.526 acres.*

Chris Wischer, Attorney, Bill Bivins, P.E., ACCU Survey and Brandi Laskowitz were present.

The President called for a staff report.

Mrs. Rector stated the applicants originally requested to rezone 5.121 acres of their 10.44 acres property from “R-1A” Single Family Dwelling to “A” Agriculture zoning. She stated they received no recommendation from the Plan Commission on June 13th. Mrs. Rector stated the Commissioners agreed to allow reduction in acreage and referred it back to Plan Commission at their July 11, 2011 meeting. She stated this application reflects the reduce acreage and they are now requesting to rezone 4.526 acres from the R-1A Single Family Dwelling to Agriculture. She added this reduction moves the proposed Agriculture zoning approximately 138’ away from Ridgeview Avenue. Mrs. Rector stated the Plan Commission also wanted the Use and Development Commitment to be amended to state the use will be limited to the property owner’s personal pleasure horses and not to exceed two horses and all of the owners were to sign the Use and Development Commitment and they have submitted that. She further explained that Agriculture zoning requires a minimum of ½ acre lot with 100’ frontage at the building line and added this property has 203.31 feet along Stanley Road but the driveway to their home is off Ridgeview Avenue. Mrs. Rector explained the Comprehensive Plan projects Moderate to High Density Residential bordering no projected plans. She stated Ms. Laskowitz lives on the property and has horses there and commented the zoning to the north is “R-1A” Hornet Hill Subdivision; South – “R-1” Single Family Dwelling; East – Mostly Vacant Agriculture – Residence; West – Agriculture – Residence; Cemetery & Vacant; also “R-1A” (remaining property of Laskowitz and Walter’s Estates. She explained there is no further new information to provide to the Board since it was before the Board in June and the application is in order.

Chris Wischer stated he is an attorney with Bamberger, Foreman, Oswald and Hahn and the staff report summarizes this well. He stated after the meeting in June and based on comments from this meeting and after that meeting, an amended petition, revising the legal description along with an amended Use and Development Commitment were submitted. He stated the legal description was reduced basically bringing it back 138 feet from the roadway or the north line of the property, taking the acreage of the rezoned area from 5.121 acres to 4.526 acres. He added the Use and Development Commitment was revised to make it clear that there would only be two horses and they will be the owners, not boarded horses from anyone else. He submitted a statement of non-objection signed by all but one of the remonstrators that were present at the June meeting. (copy on file) He stated this states they don't object to the revised petition with the revised Use and Development Commitment. He stated the Grames at 8711 Blesch Circle were at the previous meeting and his clients met with them and they didn't want to sign the paperwork but said verbally they would not be here to object and had no problem with the revised petition. He stated he doesn't know them but if they are here they will speak for themselves but they are the only ones who didn't sign the petition. He stated they will be happy to answer any questions they have.

Marlin Weisheit stated he thinks this has been a good compromise to try to work it out with all the neighbors there.

Ascertaining there were no other comments from the Board, the President called for remonstrators. Being none he called for a motion.

Marlin Weisheit made a motion to recommend approval to the County Commissioners of PC-R-11-04 as amended. The motion was seconded by Mike Moesner and unanimously carried.

Chris Wischer asked the Board to waive the Rules of Procedure and send this petition to the County Commissioners at their August 22, 2011 meeting instead of the September 12, 2011 meeting.

Larry Willis made a motion to waive the Rules of Procedure and forward this to the Commissioners on August 22, 2011 instead of September 12, 2011. The motion was seconded by Brad Overton and unanimously carried.

The President stated the next three items on the agenda will be addressed individually but they all intertwine and so they will probably discuss them together. He stated he is going to read all of them together but they will act on them individually.

PC-R-11-06 – Petition of Victoria Operations LLC by Mike McCann, Mbr. To rezone Lot 2 Victoria National Golf Club Minor Sub recorded in Warrick County Recorder's Office in Doc. # 2010R-006918 being 25. 206 acres located on the N side of Roslin Rd approximately 1700' NW of the intersection formed by Roslin Rd & Wethers Rd (W 450) and 5.144 acres (Parcel 7 Lake Group Exempt Div. recorded in Warrick County Recorder Office in Doc. #1996R-009322)

located on the S side of Jenner Rd approximately 0' S of the intersection formed by Jenner Rd. (S 150) & Baker Rd. (W 425), Boon Twp. from "A" Agriculture, "CON" Recreation and Conservancy and "R-1D" Single Family Dwelling to "C-2" Community Commercial with a Use and Development Commitment. Complete legal on file. *Advertised in the Boonville Standard July 28, 2011.*

Jordan Aigner, Aigner Engineering and Felix Solaun, Victoria Operations, and Steve Munch, General Manager, Victoria Golf Course were present.

Mrs. Rector explained that all three petitions were mailed to all of the adjacent property owners in the same certified mailing. She stated there are several people that they need the green card or unopened envelope from.

Jordan Aigner stated he has some more cards with him and he did submit the white pay receipts for all of them.

Mrs. Rector stated they still need green cards or unopened envelopes from Delma Dillman; Ron & Jennifer Genet; Greg & Dena Miles; Andrew Rentsch; James & Nancy Roby; Chris & Kara Combs; Patrick & Radena Tying; Zahid & Bushra Saqib; Stephen & Anetta Patton; John Guidry; Tom & Elizabeth Crofts; Chris & Roxanna Edwards; Fred Lasher; Joyce Baker; Kenneth & Nola Brinkley; Stanley Weaver; James & Andrea Nichols; Zbigniew & Iwona Mach. She explained this petition is for Lot 2 Victoria National Golf Club Minor (25.206 acres Boon 17-6-8 & 18-6-8)) and another 5.144 acres in Boon 8-6-8. She stated they are requesting to rezone both parcels from Agriculture, CON, and "R-1D" Single Family Dwelling to "C-2" Community Commercial with a Use and Development Commitment which limits the use of the property to the sale of single family residences, fractional sales on condominium buildings, multifamily sales, private use of a resort, lodging, or conference center. She stated there is no minimum lot size for C-2 zoning; however, residential uses in this zoning must abide by the residential setbacks and of course future subdivisions will have to be filed and perhaps some PUD zonings for different layouts so they can't just go in start building anywhere they want to; there will be future hearings. Mrs. Rector stated the Comprehensive Plan has no projection for this property and the existing land use is the clubhouse and cottage. She explained that most of the surrounding property is zoned Agriculture and CON. She stated there is R-1D; R-1B and R-2 in Victoria Manor; Victoria Bluffs and The Estates at Victoria toward the west and Paradise Lakes Subdivision abuts this property and is zoned Agriculture. She stated Lot 1 in Victoria National Golf Club Minor is zoned PUD consisting of C-2 with a Use and Development. Mrs. Rector stated there is a small portion in the SE corner in a 100 year flood plain and they will have to meet flood plain regulations if there is any building in those areas and then added that Parcel 2 has access from Victoria National Blvd. (private) and also fronts on Rosin Road. She stated the golf course club house and cottage is on this parcel. She added the five acre parcel fronts on Baker and Jenner Roads and has a single family dwelling and unattached accessory building on

it. She explained the stated use is for long term residential development and the application is in order.

Jordan Aigner stated he will answer any questions they have but he would like to say that he thinks sometimes it is uncommon that they try to rezone without a plan in front of them. He stated he feels like they are trying to do this with a little more forethought. He stated they don't have a plat associated with this; normally they do and they are trying to get it all done. He stated that is not the case; they are trying to be a little bit more forward thinking and trying to get their ducks in a row and let this Board and the neighbors know what their long term plans will be so zoning is the very first step in that. He stated they don't have hundreds of houses going in there tomorrow; this is just a very preliminary step.

Mrs. Rector stated so they want all of the zoning the same.

Jordan Aigner stated since this is a large piece of property and there was a lot of different types of zonings in different areas and it is very confusing to figure out what you could or couldn't do and when you are trying to do master planning it is a lot better if you have one zoning you are trying to comply with and they currently have Lot 1 that is already a PUD, C-2 zoning with the same Use and Development and they feel like they are pretty conservative as a developer to restricting what they can do within that C-2 with the Use and Development Commitment.

Larry Willis asked about the parcel on Jenner and Baker Roads. He asked if they will have an entrance within a mile and half from SR 261.

Jordan Aigner stated they don't have an entrance proposed there at all. He stated there is a physical access point there but they don't have any long term plans of making that an entrance.

Larry Willis stated that was his question; whether that is going to be access for construction or an entrance.

Jordan Aigner stated they are talking about a long time before development gets up to that part. He stated it should just progress from the south, where they are; really due to facilities. He stated sewer and water is down south, so they have a long way to go before they get up there.

Mrs. Rector stated she wants to state that all three Use and Development Commitments state the same uses; are limited to the same uses.

Ascertaining there were no other questions from the Board, the President called for remonstrators.

Dale Holt, 1811 Center Road, stated the concern he has is they don't lay out what the plan is going to be and this thing is going to evolve and it is going to change. He stated his concern as a property owner is he doesn't want something to be there that is going to impact his ability to change his property value. He stated but to give them a blanket approval... he heard the uses

they acknowledge but he has seen some cases and dealing with some development there, it is stated today one thing and then in the end it is totally different. He stated if it is already residential and his house is residential he understands this is Victoria National why can't they lay out the plan and at least give them an idea on how this thing is going to grow and develop. He stated because if they just start out saying they don't know what it is going to be, he knows they are going to have other hearings but it would make everybody to feel comfortable knowing what they are agreeing or disagreeing to, not just a general consent to move from the residential of what they already have approved. He stated he lives across from Victoria National and it is great to see the golf course but at the same time if this continues to grow what he will be ultimately looking at from his back yard. He stated the Home Owners Association has property that abuts up to Victoria property and they have water they fish from and he hasn't heard anything about environmental or things like that and he would like to know what is going in there and what the whole thing is going to look like in the end. He stated if they are creating this masterpiece they should lay it out so everyone here can understand exactly what their intent is.

Bob Hildenbrand, 3977 Jenner Road, stated his question is if they get this all developed will they bring enough water down for the few people who are in that area and help develop the whole thing or is it just going to be for the golf course. He stated they asked about the road (Jenner Road) and stated it is close and they will use it sooner or later and right now they have been promised chip and seal and he wonders if they will ever get black top all the way through and that is his concern.

Kirby King stated he really has more of a question of the process of getting it "C-2". He asked if it is approved C-2 with this special use permit which is fairly broad, at what point in time do they file for a subdivision.

Guy Gentry stated this Board will make a recommendation to the County Commissioners whether to approve this or deny it. He stated the Commissioners will make the final decision next month. He stated if it is approved they have limits of what they can develop but they will have to do either a PUD or a plat and come back before this Board. He stated everyone will be noticed again of those meetings. He stated that would be the final decision by the Plan Commission. He stated so it would be basically one more step to make sure it falls within the stated uses in the Use and Development.

Kirby King stated at some point in time if they change their mind and want to use it for a different use, if it is already a C-2 what is the process for changing that.

Mrs. Rector stated they would have to file a new rezoning petition and notice the neighbors again in order to amend the Use and Development Commitment. She stated they are limited to exactly what they have stated in the commitment.

Kirby King asked if there is any time limit or is it changed forever.

Guy Gentry stated it is there forever unless it is changed by petition.

Kirby King stated the concerns the people he has talked to is they really don't know what their plans are and they haven't seen anything in writing and they haven't seen any layouts and he knows they don't have that right now but typically it is unusual to do it this way; before you actually know what is going in and maybe approve it if they knew what was going in. He stated there are some concerns with something broad like this.

Brad McNealy stated he owns adjacent property and his question is how this will affect the property tax issue on his property because to the best of his knowledge it is basically just a recreational area but if it gets rezoned to residential how will that affect the other land owners who do have acreage now that is considered recreational.

Guy Gentry stated tax wise it shouldn't affect his parcel at all. He stated theirs will change from Agriculture to commercial zoning and a different rate but as far as his it shouldn't have any bearing.

Mrs. Rector stated it is her understanding that the taxes are based on use not necessarily the zoning.

Ken Scheller, 604 SR 261, stated he would just as soon object to the whole rezoning at this point until they can see an entire plan, the water, the sewage, the housing development etc. before they go ahead and rezone.

Ascertaining there were no other remonstrators, the President called for rebuttal.

Jordan Aigner stated Mr. Hildenbrand asked about water and obviously when you work with any utility they require them to extend water to anybody else in that area when they get to that point. He stated if they are on Jenner Road the closest water is up by Lost Trail Road which is quite a ways away. He stated as he was telling Larry Willis, there is a lot of expanse there so the development plan will be coming from the south to the north and if they get to that point and they are bringing water to where they can stubb it over somebody else the water company is going to make them do that anyway. He stated they will absolutely work with the property owners to do that. Mr. Aigner stated the rest of the comments involve what is the "plan". He stated here is the conundrum: do you rezone first, not knowing; or, do you know what you want and then rezone and hope you get it passed. He stated what they are trying to do what he thinks this Board was created for as so they want to rezone first and then they know what they can master plan and then they can proceed with these plans that will have all these safeguards in place that would protect the public and county from having unsightly development. He stated he really feels like they are doing exactly what this Board or process is for; they are doing the rezoning first. He stated he does understand their concerns so he will speak to what the plans are right now. Mr. Aigner stated there are lots of different people involved and the Victoria project has been successful and it is a tasteful development. He stated it is primarily single family

dwelling and they don't really plan on changing it from going to a multi-family apartments or anything like that. He stated they are hoping to go with the same caliber of development of tasteful and attractive. He stated they want to build from that so this is probably going to be a higher end development. He stated if you are living next door you should be happy about it because they are bringing a value to your property. He stated it is not going to be dense. Mr. Aigner stated if they are familiar with that property it is old strip mined property and it is not economical to flatten it all and put curb and gutter streets – they would lose money if they did that and so the plan is to go low density, high quality, drop a cottage here and there and a cottage would be anywhere from 1500 to 3200 square feet and at the most would be one acre lots but he doesn't think they will even have that much density because there is a lot of acreage there and that would be way too dense. He stated they will probably conserve a large area for recreation as well. Mr. Aigner stated this could be ten years down the road and so it starts right here knowing what he can and can't do. He stated they absolutely want to make it a good development and he thinks it should be something they will all be proud to be a part of in the County and living next door to. He stated he hopes that answers their questions and lets them know where they are coming from. He stated when they come through with their plans everyone will have the same ability to look at the small plans. Mr. Aigner stated they may only do ten lots at a time and they will have their chance to voice their opinion about the specific plans when they get there but as a planner and developer he has to start somewhere and that is right here.

The President called for further questions from the Board.

Brad Overton asked Mrs. Rector to give a brief overview of a "C-2" zoning.

Mrs. Rector stated the listed uses in a "C-2" don't really matter because they are limiting themselves with a Use and Development. She suggested that Mr. Aigner explain what he means by a lodge or resort because that sounds more commercial.

Mr. Aigner stated he thinks Mr. Holt made a comment about light commercial and they don't even want light commercial there. He stated you won't see a gas station, Wal-mart or a hotel there. He stated when they say a lodge they may have certain types of recreational memberships they will sell for people to enjoy that beauty of the property and so they may want to put a lodge for a corporation to be able to have a corporate retreat and go fishing and bird watching, hiking, whatever. He stated so this won't be like a Holiday Inn.

Mrs. Rector read the uses allowed in a "C-2" and added that zoning reverts back to lesser zonings.

Jordan Aigner stated that everything she just read are things they cannot do because they have the Use and Development Commitment. He stated the only thing they can do is single family residential, condos/multifamily and a resort lodge. He stated that is the only three things they can do and if they do want to change it they will have to redo this whole process.

Kirby King asked if condos and multifamily are the same thing.

Jordan Aigner stated when he is saying multifamily he means high rise apartments or even like double stack apartments. He stated when he says condos he means you may have a shared common wall.

Kirby King asked if that is the same definition of Area Plan.

Attorney Doll stated condominiums are individually owned where as a multifamily typically doesn't have to be, so no, they are not the same, but it is multiple parties living in a common structure, that part is the same but the ownership could be different.

Kirby King asked if the Use and Development could be changed to eliminate multifamily like duplexes and the like.

Mrs. Rector stated not to have condominiums because she thinks they want them hooked together.

Attorney Doll suggested patio homes.

Jordan Aigner stated if the Board can come up with some language that satisfies what a patio home is.

Mrs. Rector stated they have multifamily that allows up to four units and there is multifamily that allows 16 units and asked if that is what Mr. King is getting at.

Mr. King asked if there is a difference to the Plan Commission.

Mrs. Rector stated it is a difference in zoning classification. She stated an "R-2" zoning allows up to four units and an "R-2B" is apartments which allows a large apartment building so its different zoning classifications. She stated this "C-2" zoning is going to allow each one.

Attorney Doll stated unless they modify it .

Kirby King asked if they would be willing to do that.

Jordan Aigner asked what kind of modification he wants.

Mr. King stated he doesn't think anyone wants to see high rise apartments there...*inaudible*.

Mr. Aigner stated in an effort to progress here, he would like to come up with some language tonight they would be okay with.

Guy Gentry asked what size condominium visions they have. He stated condos in Florida are 16 stories and 450 units but typically around here are what he would call duplexes.

Jordan Aigner stated the only reason he is hesitating is because he could say they will only do one story and he could come up with a real tasteful design for a town home that would look real sharp on those high walls.

Attorney Doll stated what they could do is say there shall not be more than “x” number of units in a particular building and the building won’t be more than “x” number of floors high. He stated they could add that to the Use and Development Commitment and regardless of whether it is condominium or multifamily that may give them the comfort they are looking for and yet gives him the parameters to develop.

Jordan Aigner stated he would be okay saying they will go no more than two stories because he is thinking about a tasteful town home and no more than eight units within that same structure. He stated he would amend the Use and Development Commitment if that was something the Board wanted. He stated he feels like that would limit it and it would be in good faith.

Dale Holt stated he had the opportunity to go to go to Victoria National as President of the Paradise Lakes Boat Association because there was a conflict with some members who were on the lake and wandered over to Victoria National and so the olive branch was to invite him and a couple of other members over to talk about ways to have a better relationship. He stated part of this was there was a ten year plan laid out with pictures, graphs and everything and that is why he asked where their plan was for development because he saw it on the board and it was explained to him. He stated when they talk about cottages some of them have concerns that they are going to be duck hunting over there on that side of the lake. He stated the plan he saw had a path and walk and cottages they were going to rent out and there was a comprehensive plan but today he didn’t hear anything about that plan; he hears about something they are going to put together as they go and set the zoning first. He stated that might be good for Victoria but the property owners have concerns that are legitimate because they don’t want to look over the high wall and see a big high rise or condos staring out at them because they like the tranquility of the area and that is why they bought there. He stated he just wants it put in the record that there was a ten year plan that he saw in the clubhouse but they haven’t talked about it here tonight.

Jordan Aigner stated there has been a change of ownership and so the prior owners had a different ten year plan and that plan he saw was much denser than what they are talking about now.

Dale Holt stated but the footing is actually there because they have the plan and have done the research.

Jordan Aigner stated not really; what he is saying is that plan is completely changed, it was way too dense and they were flattening everything.

Dale Holt stated he understands what he is saying and that may be the case but again they can understand that by seeing that plan and that cottages were part of that plan as well as the duck

hunting and the walking all the other parts that he saw who is to say.... He stated sometimes they may have missed some meetings because they are advertised in the Boonville Standard but it is important for him and the other people that have talked to him about it is say they want to control the environment where they live. He stated there is a lot of fishing areas there and they have had conflicts with the gate on the boat ramp area where it has been removed and never replaced and there was assurances from Victoria that it would be done but as yet the gate has not been put back up and the dirt hasn't been replaced where they removed it. He stated there are a lot of things and concerns that his neighbors have and wanted him to address. He again stated he saw a ten year plan and so there is something out there that shows they know what they want to do.

Jordan Aigner stated as far as the side issues that don't have anything to do with this zoning, he will speak with Mr. Holt and the management to figure out what is going on with the gate. He stated he wants to see a plan and hears them but how can he give them a plan if he doesn't know what it will be zoned to. He stated he wants to give them a master plan or a masterpiece but he has to know the zoning first and this fits what they are going to. He stated he really thinks this is the process that the ordinance lays out for them; do the zoning first and then the next step happens where you can see that plan.

Larry Willis stated he understands what Mr. Aigner is saying in that there is no sense in wasting the owners resources by hiring an engineering firm to do a lot of different mock ups when they don't know if they are going to get their zoning approved. He stated he thinks they have the right idea and this is what they have done in the past. He stated they can't waste their resources on four or five different steps if they don't know if they are going to get it through the first step.

Mike Moesner stated the second step to him is when they come back and say this is what they want to put where. He stated then they have a chance to say no, we would rather you not do that there. He stated that is why this Board is here at that point.

Mrs. Rector stated this is the normal process.

The President asked Mr. Aigner if he wants to request an amendment to the Use and Development Commitment.

Mr. Aigner stated he would ask the Board to proceed with these zonings and make a recommendation with the amended Use and Development Commitment as prior stated of no more than two stories and no more than eight units per structure.

Larry Willis made a motion to allow the Use and Development Commitment on all three applications, be amended to allow the structures to be no more than two stories high and no more than eight units per structure. The motion was seconded Marlin Weisheit and unanimously carried.

Ascertaining there were no other comments from the Board, the President called for a motion.

Marlin Weisheit made a motion to recommend approval to the County Commissioners of PC-R-11-06, as amended. The motion was seconded by Mike Moesner and unanimously carried.

The President stated this petition will be forwarded to the County Commissioners at their September 12, 2011 meeting with a recommendation of approval.

Jordan Aigner asked they waive the rules of procedure and forward this to the Commissioners on August 22, 2011.

Guy Gentry stated he didn't realize they were in such a hurry.

Jordan Aigner stated the only reason is because they have some owners who live out of town and that is one date he knows for sure that one of them can be here.

Mrs. Rector stated the one they let go on early has been before the Commissioners before and was sent back for an amendment. She stated she is not trying to put him off, but the problem is that a certified report has to go to the Commissioners within ten days including the Minutes.

Jordan Aigner stated there are two owners and he will make sure he gets one of them here in September. He stated that will be fine.

Mr. Gentry stated they really don't like to waive the Rules of Procedure unless it is a peculiar instance.

PC-R-11-07 – Petition of Victoria Conservation LLC by Mike McCann, Mbr. To rezone Lot 3 Victoria National Golf Club Minor Sub recorded in Warrick County Recorder's Office in Doc. # 2010R-006918 being 266.544 acres located on the N side of Roslin Rd approximately 1700' NW of the intersection formed by Roslin Rd & Wethers Rd (W 450), Boon Twp. from "A" Agriculture and "CON" Recreation and Conservancy & "R-1D" Single Family Dwelling zoning district to "C-2" Community Commercial with a Use and Development Commitment. Complete legal on file. *Advertised in the Boonville Standard July 28, 2011.*

Jordan Aigner, Aigner Engineering and Felix Solaun, Victoria Operations, and Steve Munch, General Manager, Victoria Golf Course were present.

Mrs. Rector stated this is basically the same staff report previously given.

Guy Gentry stated he wants to get the location of this property clear in him mind.

Jordan Aigner stated this parcel is basically the majority of the golf course.

Guy Gentry stated this is the one that had different types of zoning on it. He then called for comments from the Board. Being none he called for remonstrators.

Ken Scheller, 604 SR 261, stated if he understood this correctly, a lot of this is going to be single family residences and there is just going to be some condo/commercial use. He asked if they can't get the areas to be condos zoned the "C-2" and the ones that will be single family residences zoned residential.

Guy Gentry stated they want it all zoned the "C-2" and single family residences are allowed in that zoning.

Mr. Scheller stated they can be in that zoning but if they zone it single family residence then it cannot be developed as a "C-2" isn't that correct.

Guy Gentry said they will come back with a PUD or a layout to show that type of thing but they don't have that yet but he will have to have what he is saying before they start doing the actual development.

Mr. Scheller stated so the C-2 zone is the same as a single family residence zoning.

Mrs. Rector stated no it isn't.

Mr. Scheller stated so if part of it is going to be single family residences the zoning could be for just a single family residence and not a C-2.

Morrie Doll stated he thinks the problem is that they don't know here tonight what sections of this geography are going to end up being single family and what sections are going to be multifamily and so it would be impossible. He stated what he hears him saying to the Board is why do it all a C-2; if you know what sections are going to be single family then just make that residential and if you know what sections will be multifamily then make only that the C-2.

Mr. Scheller stated that is his point.

Morrie Doll stated from the testimony he heard this evening he doesn't think that delineation has been determined of what will go exactly where has been made. He stated when they bring in a plat; which all the abutting land owners will be notified, it will say where the single family lots or the multifamily lots will be. He stated everybody can come back in and say why do you have this here or that there and the Board can reconsider.

Mr. Scheller stated so would it be better to go for zoning the whole thing as single family residences and then go back and try to rezone.

Morrie Doll stated rezoning again is not efficient and frankly he has his protection of questioning where the multifamily exists at the plat or PUD approval point in time. He stated that will be coming in the future; once they know where they want to build what they will bring in a plat. He stated it isn't efficient to go through this same rezoning process two or three times.

Mr. Scheller stated so at that meeting they can ask them to change the zoning from C-2 down to a residential.

Attorney Doll stated no, at that meeting they can say they object to the placement of this kind of residence at this location because... He stated he can say at the plat approval process he wants single family residences here not multifamily residences and then they get to respond. He stated the Board can either turn down the plat or agree to change the plat or approve the plat as presented. He stated so if he is really at how does he stop multifamily from being everywhere – that is the point he can do that; the plat approval process. He stated he does want to be clear; the plat doesn't change the zoning category it just changes the description of how it is going to be used.

Mr. Scheller stated so as landowners who want to protect themselves, how would they go about limiting ...it is still going to be zoned C-2.

Attorney Doll stated they are going to get another notice saying the plat is being set for hearing and when that will be.

Mr. Scheller stated so even if it is zoned C-2 even back to the plat, how do they protect themselves in the future having to go back and defend their position. He stated if it is already zoned C-2 they can continue to come back with different plats and they will continually have to say they object because...

Attorney Doll agreed there could and probably will be multiple plats because of the size of acreage of this development. He again stated the abutting land owners will be given notice and they can come in to speak their piece and this Board will hear it. He stated so there will be several future hearings and they will be much more specific because they will show streets and sidewalks and retention ponds and designation of areas for single family residences and multifamily residences all drawn out to scale in blue print style so everyone can understand exactly what is coming next door to them. He stated they can speak their minds and then the Board will act.

Guy Gentry stated of course his recommendation to Victoria is to resolve some of this by having a neighborhood meeting prior to a Board hearing in order to answer a lot of their questions.

Jordan Aigner stated once they have a plan that will not be a problem.

Mr. Scheller asked when they are in those plat meetings and they have a zone C-2, can there be covenants attached to that zoning to prevent certain things from happening in the future.

Guy Gentry said there can be but the County doesn't enforce or govern restrictive covenants; that is a civil issue between the developer and the owners.

Morrie Doll stated they can rest assured that the plats cannot have anything except single family residences, fractional and condominium buildings; multifamily or a private use resort, lodge or conference center. He stated that is all because of the Use and Development Commitment attached to the zoning petition. He further stated the multifamily structures can only be two stories tall and no more than eight units per structures.

Andy Schesslee stated the only thing he would like to see is instead of saying two stories tall they put a limit on the height, because of the terrain out there and it would restrict it to certain footage above ground.

Mrs. Rector stated there is no height restriction in a C-2 but for a multifamily use the height restriction is 45 feet.

Andy Schesslee stated two stories and or limited to 45 feet sounds fine to him so you don't end up building a lodge that some people on the opposite side never sees the light of day.

Mrs. Rector stated so he is talking for any structure.

Mr. Schesslee stated if you are going to make it limited to two stories he thinks it would be advisable to put a height on it.

Jordan Aigner asked what the high restriction in an R-2B apartment zoning was to which Mrs. Rector stated it is 45 feet and it is the same for the Resort zoning.

Judy Writsel stated so there are already high limits set in the ordinance.

Jordan Aigner stated so really he is already restricted to 45 feet.

Ronald Hemmer, 1066 Baker Road, stated this property doesn't touch him but the next one does and his understanding is they are rezoning from the agriculture and CON zoning and wonders if there are any plans for any recreation in the new C-2 plan.

Jordan Aigner stated they have some plans to do that but nothing concrete. He stated they want to preserve the beauty of the property but they don't have a plan set yet. He stated they want to keep a lot of open green space but right now they don't know the location of the structures as it plays into the development.

Mr. Hemmer asked if they are going to have any target shooting.

Jordan Aigner stated they don't have any plans right now for target shooting or anything like that.

Mrs. Rector stated they would have to have another public hearing to be able to have target shooting because it takes a Special Use.

Attorney Doll stated hunting lodges are a permitted use in a CON zoning and so by making this a C-2 zoning they preclude the ability to do hunting lodges. He stated they could do it today in the CON areas but not if they rezone.

Mr. Hemmer stated being neighbors they just didn't want to get shot at.

Ascertaining there were no remonstrators and being no other comments from the Board, the President called for a motion.

Marlin Weisheit made a motion to recommend approval to the County Commissioners of PC-R-11-07 as amended. The motion was seconded by Larry Willis and unanimously carried.

The President stated this will be forwarded to the County Commissioners on September 12, 2011 with a recommendation of approval.

PC-R-11-08 – Petition of Roslin Partners LLC by Mike McCann, Mbr. To rezone 548.553 acres (Parcel 2 Lake Group Exempt Div. recorded in Warrick County Recorder Office in Doc. #1996R-009322) located on the S side of SR 261 approximately 1000' SW of the intersection formed by Quail Crossing Dr. & SR 261, Boon Twp. from "A" Agriculture and "CON" Recreation and Conservancy zoning districts to "C-2" Community Commercial with a Use and Development Commitment. Complete legal on file. *Advertised in the Boonville Standard July 28, 2011.*

Jordan Aigner, Aigner Engineering and Felix Solaun, Victoria Operations, and Steve Munch, General Manager, Victoria Golf Course were present.

Mrs. Rector stated the staff report is the similar to the previous petitions.

The President called for remonstrators.

An unidentified remonstrator asked where the road access will be on the north end of this property.

Jordan Aigner stated the entrance on SR 261 could be anywhere the State would approve an entrance along their property. He stated he would say probably closer to the curve because of sight distance but he doesn't know.

Guy Gentry asked if the gated entrance on SR 261 is theirs or the house there.

Jordan Aigner stated they have a shared access there so they do have access already but they don't use it for security reasons. He stated there is that first gate that you can see close to the highway and there is also a secondary gate further back that they keep locked all of the time. He stated they will have to go to the State if they want a commercial entrance.

Ascertaining there were no other remonstrators and being no comments from the Board, the President called for a motion.

Mike Moesner made a motion to recommend approval to the County Commissioners of PC-R-11-08 as amended. The motion was seconded by Larry Willis and unanimously carried.

The President stated this petition will be forwarded to the County Commissioners with a recommendation of approval on September 12, 2011.

Mrs. Rector told Mr. Aigner he needs to bring in amended Use and Development Commitments for each petition.

OTHER BUSINESS:

Formal Complaint: Katheryn Lynch, 6144 Grand River Rd, Newburgh, IN – Alleged junk/salvage yard & dog kennel in an “R-1A” Single Family Dwelling zoning district.

Katheryn Lynch was present.

The President called for a staff report.

Mrs. Rector stated a complaint was filed stating *“the condition of her residence is an eyesore to the neighborhood. She has a lot of junk/trash under a carport going out toward the road. I have also counted six dogs running around in back yard area constantly barking. She has weeds, trees and shrubbery “out of control” in the yard”* She stated the Zoning Inspector went to the property April 27, 2011 and took photographs and he reports *I have visited 6144 Grand River Rd, Newburgh IN. They have let the yard become overgrown and there is trash under the carport. I talked to several neighbors and they tell me the Health Department was there a few years ago to clean up the inside from the many dogs that are in the house.* She stated staff asked the Health Department if they have ever visited this property and they stated they have no record of being at this property. Mrs. Rector stated a letter went out on May 11, 2011 informing Ms. Lynch of the complaint and inspection and asking her to contact this office and she telephoned the office May 16, 2011 and was granted 60 days to clean up the property and to resolve the dog issued (get down to three dogs). She stated a re- inspection was to be done July 21, 2011 and Ms. Lynch telephoned the office on July 18, 2011, asking for additional time and since there were no meetings in July she was granted one more week and an inspection was to be done on July 29, 2011. She stated the Zoning Inspector went to the property on July 28, 2011 and took photographs. He states *I have visited the property at 6144 Grand River Road. The property is still a mess. The owner is trying to clean it up but seems overwhelmed by the process. I also heard several dogs barking in the house while I was there.* She added the Zoning Inspector re-visited the property this morning and took photos and he reports the carport has been cleaned up enough to get her car there and commented the items in the driveway and on the carport have been stacked on shelves or on the concrete (birdseed, etc.) and the yard looks the same as it is

still overgrown, however he did state verbally to her that there is nothing, no items in the yard, it is just overgrown and that is not a zoning violation. She stated from what she sees in the pictures it appears there is no zoning violation any longer from what the Zoning Inspector has said. She stated she doesn't know how many dogs are there.

Guy Gentry asked Mrs. Lynch how many dogs she has.

Mrs. Lynch stated she has three now.

Guy Gentry asked how many she will have tomorrow.

Mrs. Lynch stated they all bark if somebody is at her door or on her property.

Guy Gentry stated she does realize that three is her maximum without having a kennel license.

Mrs. Lynch answered yes she is aware of that.

Guy Gentry asked the Board's wishes.

Mike Moesner stated if the report from the Inspector is correct then he would move she is no longer in violation and to remove it from the agenda. The motion was seconded by Larry Willis and unanimously carried.

Guy Gentry stated she is no longer in violation from this Board's standards but as far as the yard, grass and weeds there may still be somebody that asks for her to clean that up.

Mrs. Lynch stated what was in the letter was not correct. She stated when the Health Department came out four years ago it was because of weeds and she proved to him with her certificate that her yard is a wildlife habitat according to the National Wildlife Federation and she actually teaches wildlife habitat classes at Wesselman Woods. She stated she will have to admit it is a little messier now than usual because it has been so hot and she hasn't had time to cut some of the stuff back but she does try to keep some natural undergrowth because she tries to attract birds in there and they need that for their nesting and protection from hawks.

Guy Gentry thanked her for attending the meeting.

Nance Commercial Subdivision Ingress/Egress Easement

Griffin Nance and Danny Leek, Morley and Associates were present.

Mrs. Rector stated Mr. Nance has a four lot commercial subdivision final plat filed in the office. She stated it was being checked by staff. She stated if the Board recalls, in November 2010 the Board changed the ordinance for non-residential lots located within a subdivision plat that do not front and have direct ingress and egress to and from the proposed building site from a dedicated street or right of way maintained by the county or other participating jurisdiction, shall be

properly demonstrated to have adequate ingress and egress for each use/structure and it must be clearly documented as an ingress/egress easement on the plat. She stated when staff was reviewing this plat that is what was in her head; allowing access by ingress/egress easement. She stated as they can see on the plat the easement goes up and around. Mrs. Rector stated she and Attorney Doll spoke because she thinks they need to further discuss this ordinance change where you have half an easement on one lot and half on another lot. She stated when they were doing this ordinance she was thinking of it as like a private road instead of twelve feet here and twelve feet there with a property line in between and they will discuss all that later; the problem with this plat is when it was approved in 2009 they didn't have the ingress/egress ordinance and it was approved as a four lot subdivision and ...

Attorney Doll stated so the easement that showed up on the final plat wasn't on the preliminary plat.

Griffin Nance stated it was on the primary.

Mrs. Rector stated it was a recorded easement that Mr. Nance dedicated to Kenny Ubelhor (Maken Corporation), it wasn't used as an ingress/egress easement for Lot 1 when the primary plat was done and now it is. She stated she brought this back to the Board because they didn't have this ordinance when the plat was approved.

Danny Leek stated they have a copy of the letter from INDOT which said they couldn't get another access on SR 66 because it is a limited access facility and there is a median across the highway and so they said they wanted lots 1 & 2 to have access to the one existing drive cut they installed when they built SR 66 and then lots 3 & 4 have access to High Pointe Drive. He stated INDOT further commented they don't have jurisdiction on internal roadways. He stated so they know they can't get another driveway cut onto SR 66 for lot 1. He stated the whole plan evolved over a long time because there were a lot of different ideas and people involved to build different kinds of businesses there and as it evolved Mr. Ubelhor wanted his easement across the property because he owns a corner lot down at the southeast corner of the development and so Mr. Nance agreed to give him the easement knowing that this plat was proceeding with this type of arrangement and at the same time Mr. Nance was granting water lines and sewer lines as he went along the way.

Mrs. Rector asked Mr. Nance why he wants two lots (1 & 2) when she has building plans showing the business going in is taking both lots.

Mr. Nance stated they don't have to have them; they just didn't want to have the expense of changing them. He stated he already has money down on those two lots but he doesn't need them as two lots.

Mrs. Rector stated so they don't need that easement at all.

Mr. Nance stated the business that is going to take lots 1 & 2 wants people to be able to come off High Pointe Drive to that business so he needs the easement. He stated the State doesn't want people buzzing back and forth through there.

Mrs. Rector stated the State only approved a right in right out entrance.

Mr. Nance stated that is what makes it valuable to this business so the people who live back there or go to Acapulco Restaurant or Wal-Mart or Bob's Gym can come directly to this business because if not you have to do a turn around and it limits the use of the property a lot. He stated if this ingress/egress can't be used for lots 3 and 4 then when they sell those lots they can put a separate drive entrance in.

Mrs. Rector stated lot 4 doesn't need it at all and lot 3 has frontage as well. She stated what she needs the Board to do is decide if this is too much of a substantial change from the primary plat.

Morrie Doll asked why this won't become a shortcut for anyone wanting to get into or out of High Pointe.

Mrs. Rector stated it will.

Guy Gentry stated it will but he doesn't see the problem.

Mr. Nance stated the issue is if they don't then what they are doing is making the people who want to shop there – if they can't access it from High Pointe - which comes out on Bell Road by Wal-Mart and there is a light there- or it comes out by Sherwin Williams and turns right – you would literally, if you are coming east and want to get to that shop, you would have to SR 261 and do a U Turn and that is the only way. He stated he doesn't think the guy will buy the property...he sees their issue but the Bob's Gym people now can turn left and come out at the Dairy Queen or Sherwin Williams or they can snake behind the Apple Center and come out at the Marathon (on 261) or they can turn right and go to Bell Road. He stated is it possible there will be a huge amount of traffic there, it is not impossible but he just doesn't see most people cutting through a five mile per hour private drive through body shop parking lot to come out to the highway if they are already accustomed....He stated he thinks the majority use of that...will you have somebody at 10:00 pm going to use that – absolutely, but it is going to be primary he doesn't think so.

Attorney Doll asked about the other lots to the west; will they be using this?

Danny Leek stated there is an existing easement there for those lots already.

Griffin Nance stated the North/South is already there and they are trying to connect it to High Pointe Drive.

Larry Willis stated he can see where the property owner of lot 1 and 2 would want a back exit out to a lesser traveled road for their customers rather than jumping out to the 45 mph traffic.

Griffin Nance stated if the property owner is trying to run a body shop and someone's car is setting at Bob's Gym while they work out and they call and ask for an estimate, the owner would have to come out on SR 66, turn west to Bell Road turn north and then turn right again on High Pointe and go to Bob's Gym and then when he is done he has to keep going west and turn at Sherwin Williams on SR 66 to get back to his shop. He stated he understands the concerns about the traffic but it is already coming out on SR 66 somewhere. He stated if this was 50 homes and people were coming in and out constantly he could see the issue but you are going to have maybe ten employees at the shop and their customers.

Attorney Doll asked the width of the proposed Nance Drive right of way.

Danny Leek stated it is 24 feet.

Griffin Nance stated it will actually be the back part of the parking lot.

Mrs. Rector stated she has the plan for the proposed collision center. She then stated she knows she travels High Pointe Drive all the time to get to Wal-Mart or get back to SR 261 and she won't come out here because she does everything she can to avoid that highway.

Danny Leek stated it is going to be part of a parking lot and as lot 1, 2 and 3 are developed it is going to be part of the parking lot similar to what you have at the Wal-Mart in Boonville. He stated it won't be looking like a curb and gutter street, it is going to be an asphalt parking lot.

Mrs. Rector stated that is what is going to be discussed later but she doesn't want to get this plat mixed up in that discussion.

Marling Weisheit stated he doesn't see any problems but asked if the curve on High Pointe Drive will be a dangerous intersection with people pulling out. He stated he thinks it is wide open enough there that people have enough visibility.

Griffin Nance stated it is good visibility and again there is traffic there but it is nothing like the other side of the street around Beef O'Brady or Schnucks because that is nonstop 40mph traffic.

Mrs. Rector stated Bobby Howard, County Engineer, approved that location and they have to put in a commercial driveway entrance in the right of way. She stated they either have to get the entrance in or bond it before they can get permits.

Mr. Nance stated he already has the cashier's check for that.

Guy Gentry stated in reference to this particular situation he would make a motion this is not an extensive change from the original plat and to go ahead with the recording. The motion was seconded by Marlin Weisheit and unanimously carried.

* * *

Mrs. Rector stated she and Attorney Doll have been talking about this easement issue. She stated the Boonville Wal-Mart was the first one that did this. She stated when you turn off the highway onto American Way and then turn left again you are on Lot 1 which is the Wal-Mart lot and on that lot is a 40' wide ingress/egress easement called Liberty Blvd. She stated it is a private street and there is a stripe there but it is all on lot 1 and it doesn't have twenty feet on those outlots and twenty feet on Wal-Mart and it doesn't cross property owners. Mrs. Rector stated when she looked at this plat (Nance) that is what worried her. She stated she doesn't think the ordinance is specific enough. She stated they changed this so when the development starts along the new Stahl Road or whatever it is called, they didn't want all these different lots having driveways for every business. She stated in her head it was an easement like a private road on one lot that people front on. She stated in the Nance subdivision, the plat says lots 1 & 2 are going to maintain the easement but what if they don't and lot 3 is using it as well. She asked who is responsible for this and those are some of her concerns. She stated perhaps Attorney Doll has some suggestions of what they need to add to the ordinance.

Attorney Doll stated the question gets to be is do you want pieces of this easement to be on multiple properties or do you want it to be on one, so if there is one responsible party the County deals with.

Guy Gentry stated they have already started that on Stahl Road. He stated they came in and they gave them that out and they told them what Wal-Mart did and will let them do it and how many owners will be down there. He stated they have two lots and they did a little road.

Mrs. Rector stated that was for the condos (Eli Place) and she always thought that should have been a PUD but no one else agreed with her.

Guy Gentry stated it is going to be a private road and who is going to maintain that.

Mrs. Rector stated it is all owned by one entity but it is mixed uses, the nursing home, rehab center and the condos.

Judy Writsel stated it is one big business.

Attorney Doll stated if you look at Nance as an example. He stated if this easement is to be maintained by the property owners then look at all of the property owners you have with responsibility. He stated you have lots 1, 2 and lot 3 and you may have the lots to the west because it looks to him as if the entrance way is partially on them. He stated what if one of them says ok, the road needs repaired and will put up money to repair it but the others say it looks fine and won't pay; he stated he really thinks they are creating a nightmare. He stated this may be fine, it may not be their problem, but he just wants to point that out.

Guy Gentry stated to him it is like restrictions and covenants in subdivisions – it is a civil issue between all parties involved.

Attorney Doll stated except with this one they specifically approved. He stated they need to decide if they worry about this or not.

Mrs. Rector stated she doesn't think this ordinance was to allow people to just put in driveways in a parking lot.

Guy Gentry stated this could have been a public road because they have the cut.

Mrs. Rector stated it could have been made to be a road.

Guy Gentry stated in Wal-Mart's case they weren't allowed to have separate cuts for those businesses up front and so the only access was through that easement so there is a difference.

Attorney Doll stated he doesn't see why this wasn't a public road.

Mrs. Rector stated that or be a PUD and make it a private street with one owner.

Attorney Doll stated if the State approved the cut then it should have been a public street. He stated the question is now when will they have another one like this and so do they want to address this now or do they say they don't care. He stated if they don't care, why would anyone ever want to public road, they would just do easements because they would save thousands of dollars. He stated at some point in time they are going to have a lot of unhappy people with potholes in roads that are not being fixed and they didn't do anything to prevent it. He stated if it was all on one owner then it still may not be prevented but they have one person to hold responsible.

Guy Gentry asked what they need to do to fix the problem.

Attorney Doll stated amend the ordinance if they think it is a problem. He stated they could amend it to say the easement has to be located on one lot.

Judy Writsel asked even if the driveway is all on one lot are there responsibilities of the lots that abut it to help maintain it.

Attorney Doll stated no.

Mrs. Writsel stated she happens to live on something like that – there are three houses that have a private drive and their property lines go right down the middle and it can get to be an issue. She stated the drive was falling apart and one of the people didn't want to help.

Attorney Doll stated that is exactly the point he was making.

Mrs. Writsel stated if the easement was all on her property but everyone was using it she would think they should at least...

Attorney Doll stated from the County's point of view she would be the only one responsible.

Mrs. Writsel stated she could see where there will be problems either way.

Mrs. Rector stated there is no limited size for commercial lots so what if he would want ten lots there on an easement. She stated they are trying to circumvent building roads by using this ordinance that the Board created by not going into more detail.

Attorney Doll stated the goal was to avoid land locking; that was the purpose of this amendment.

Mrs. Rector stated she knows Vanderburgh County does it in some way but she hasn't really researched it yet but she thinks it should be on one lot and it should be for no other access.

Attorney Doll stated this is a street in the Nance example. He stated he will drive on it because it will take him to High Pointe.

Larry Willis stated he could put rumble strips in there and no one could do anything about it or he could chain it so no one could go up and down it.

Attorney Doll stated theoretically he could but there would be liability.

Larry Willis stated he understands that but he still could make it a gated road.

Mike Moesner stated even if they move the road down it will still have more than one lot involved.

Mrs. Rector stated she thinks what the County was wanting to accomplish is when they want one main drive coming off a road and a lot with say three buildings. She stated all three buildings would be fed by the one driveway on the one lot and it is an easement there instead each building having a separate entrance.

Attorney Doll stated they may not think this is a problem and if they don't then say so.

Mrs. Rector stated she thinks it is a great big problem and you might as well throw the Subdivision Control Ordinance out the window when it comes to roads. She stated something will happen and an ambulance or fire truck can't get through and guess who will get the blame because they approved it.

Attorney Doll stated when a county road is put in it has to be bonded and this doesn't have to be bonded so what quality of workmanship will it be.

Mrs. Writsel asked if the entire easement were on one lot would they require a maintenance fee.

Attorney Doll stated it is a private relationship between them and the neighbors but the County could hold the one lot responsible whereas right now they are going to have three or four people and they are never going to get unanimity.

Mrs. Rector stated this has two access points and they have to look at it as well so it can't become a road.

Attorney Doll stated this was meant to give access so a lot isn't land locked but this has become a connector street. He stated he thinks it will be used a lot.

Marlin Weisheit stated there are a lot of senior apartments back there as well.

Attorney Doll stated anyone going west will use this.

Mrs. Rector stated she thinks they will go down to the light on Bell Road instead. She stated if the Board agrees there is a need to work on this then she can do research and look at what others are doing.

Guy Gentry stated he feels they should.

Marlin Weisheit stated in Evansville there are lots of these around the mall and everyone takes shortcuts to get out.

It was the consensus of the Board that Mrs. Rector should work on this and bring it back to them.

Wolfe Property – Report on Lincoln Avenue and Jamestown Road

Mrs. Rector stated she and Attorney Doll went to court over these properties and one Jamestown Road didn't show up because a child was in the hospital and so it was continued to September 16, 2011. She stated the Lincoln Avenue owners did show up and said they were guilty of having a salvage yard and were given until September 16, 2011 to get it cleaned up. She stated the man who keeps filing the complaints on Jamestown has called her and said they are moving the stuff off Lincoln to Jamestown and has been emailing her pictures. She stated they are now living in the Jamestown house and have been for about two months. Mrs. Rector stated there isn't anything she can do about it except she told the neighbor that he should take pictures and the Board could look to see if the stuff on Lincoln shows up at Jamestown. She stated she can see them trying to shuffle the stuff back and forth.

Attorney Doll stated they won't be able to do that because the order the judge enters is not only a finding they are in violation but he enters a restraining order against allowing them to continue in violation so they can't shift the stuff back and forth. He stated the particular Judge who heard this specifically asked to continue to hear this case because he believes he wants to keep control over it.

Guy Gentry asked when they go back to court.

Mrs. Rector stated they go back September 16, 2011 and so they will have to go back for more inspections.

ATTORNEY BUSINESS:

None.

EXECUTIVE DIRECTOR BUSINESS:

Flower Fund – Mrs. Rector asked for donations.

* * *

Lynnville Town Board Complaint – Mrs. Rector stated Judy Writsel is the Lynnville Town Board President and she is aware of this next item. She stated the office gave a permit to an individual for a manufactured home to be located within the Town of Lynnville. She stated the home met all of the ordinance requirements and the Inspector inspected it and even went out and took pictures of the home. Mrs. Rector stated one of the Town Board Members didn't like it and called the office complaining and was not very kind most of the time. She stated they tried to get this all clear with her and the Town's Attorney even sent an email regarding the codes. She stated while she and Attorney Doll was in Court over the Wolfe property, this Board Member came into the office. She stated Sheila was off that day and Christy was waiting on a customer, issuing a permit. She stated the lady came in and started asking questions to Joe and Christy tells her she will be with her in just a minute because she knows what is going on but she needed to finish waiting on the gentleman. Mrs. Rector stated the woman looked at the builder and asked him who he was, is he somebody or just a taxpayer and basically told Christy that she was important and should be waited on. Mrs. Rector stated Christy stated he was someone important to her and she went on and finished waiting on him. Mrs. Rector stated the woman was very rude and it has even gotten to the point that Commissioner Williams and the Building Inspector had to go to the property where the manufactured home is to be located. Mrs. Rector stated the woman told the Building Inspector she would like to smack him in the face.

Attorney Doll stated he has had to speak with Lynnville's legal counsel twice over this issue on behalf of this one member questioning the validity of the permit.

Mrs. Writsel stated he isn't calling on behalf of the Town Board.

Attorney Doll stated he indicated he was calling in the capacity of the Town Attorney. He stated manufactured homes are exempted from them. He stated the legislature said they cannot discriminate against manufactured housing and if it has the seal and shows it a manufactured or modular home it is the same thing as a stick built home and they have no ability to discriminate

against it in the zoning ordinance. He stated he told their counsel that and then he called again a second time wanting him to define what a foundation was and then said well they figured it out.

Mrs. Rector stated her point in bringing this up is that she thinks it was very disrespectful of a Town Board Member; that they work for by trying to take care of their town and work very hard in the office to enforce the zoning ordinance and violations in Lynnville and it should not have happened.

Attorney Doll stated the staff shouldn't be disrespected.

Mrs. Rector agreed and stated she just wanted the Board to know that she did call Mrs. Writsel and asked who the President of the Town Board is and it is her and she reported the incident to her. She stated she doesn't want to be disrespectful to a Town Board Member either but she is not going to put up with them being rude to the staff and to customers in the office.

Mrs. Writsel stated she thinks the situation has been settled and she wants them to know that she told the other Board Member that it (the permit) was okay the entire time but she is very independent minded and sees and does things her own way sometimes. She stated whatever the Board wants to do is fine, a note or whatever.

Attorney Doll stated he doesn't think they need to send a note or anything but they may have ruffled feathers up there they didn't mean to.

Larry Willis asked if she came into the office as a representative of the Town Board.

Mrs. Rector stated she was.

Judy Writsel stated she was mis-representing herself because she was elected to the Town Board but the Board did not authorize her to do that, she did it on her own as a Board Member representing the request of the people in her district. She stated it was not discussed at any meeting and no one asked her to take care of it. Mrs. Writsel stated she did talk to her about this and she also talked to the individual and was convinced once she saw the unit that it met the requirements. She stated the other Board Member's constituents insisted that she keep going and she was willing to do so but she was doing it on her own, not from a request from the Council.

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Tattoo Parlor Zoning – Mrs. Rector stated there was an inquiry regarding what zoning a tattoo parlor could go in. She stated it isn't a listed use in the Comprehensive Zoning Ordinance.

It was the consensus of the Board that it would be similar to a beauty shop and could go within a “C-1” Neighborhood Commercial zoning district.

* * *

Mrs. Rector stated in 2006 this Board approved Paradise Gardens Subdivision and rezoning. She stated Donald Lewis was the owner/developer. She stated a few months ago after Jagoe started building homes there, an adjacent property owner came into the office and said he was never given notice of the rezoning or the subdivision. She stated they looked on the adjacent property owners list for the both the rezoning and the subdivision and found that Mr. Bivins who did the applications for Mr. Lewis mis-identified the adjacent lot owners. She stated staff does not verify adjacent property owners, it is up the petitioner.

Attorney Doll stated it was two lots and on the plat it was indicated that it was one owner instead of two.

Mrs. Rector stated so he didn’t get noticed but it was over five years ago. She stated the streets were put in right after the primary was approved and so the streets have been there almost five years.

Attorney Doll stated Paradise went out of business and Jagoe Homes bought it and started building there.

Mrs. Rector stated the man came in and wanted copies of all the Minutes, plats, etc. She stated they thought that was the end of it because they found out his fence was across the property line on Jagoe’s property and Jagoe did a lot line adjustment and gave him additional property. She stated the other day the Commissioners and Plan Commission got served by letter from Attorney Les Shively, who was the Plan Commission’s Attorney at the time the rezoning and Paradise Gardens was approved, they are suing because his client wasn’t given notice.

Attorney Doll stated he is giving notice of a tort claim which means he can file suit against the County for damages for violating his rights. He stated he thinks this is stale; his initial response is it is too late.

Mrs. Writsel stated the roads have been there all this time he had to know something was going on.

Attorney Doll stated he had actual knowledge and he chose not to proceed and so he thinks he will lose. He stated this should be forwarded to the County’s liability insurance carrier.

Discussion ensued that Attorney Shively could be called as a County witness since he was their attorney and this should be a conflict of interest.

* * *

Letter of Credit – Drainage Discussion – Mrs. Rector stated this is something that should probably be also on the Drainage Board Agenda. She stated when the new Subdivision Control Ordinance was adopted it was included that a developer has to post a letter of credit for drainage. She stated this includes drainage, pipes, inlets, erosion control, grading or anything with the drainage plan. She stated the dollar amount has to be agreed upon by the County Surveyor and County Engineer. Mrs. Rector stated the problem is the time limit for the drainage is set going along with the time period for the streets so they have five years. She stated you can do a large primary plat with 100 lots with retention areas; then they do a section of ten lots here and ten lots here that don't include the retention areas and then they are not at the pre-construction flow of rate and they are beginning to flood out the neighbors. She stated the County Engineer would like it to be changed to where the all of the drainage structures have to be in prior to any secondary plat being recorded. She stated she thinks that could be a problem. She stated she doesn't fully understand what he means about the pre-construction flow rate , but he said in some cases it could be ten houses, some five houses, some twenty houses, it would be on a case by case for each subdivision of when it would have to be put in before they could issue any more permits. She stated that may be a good way of looking at it. She asked Attorney Doll if he felt this needs to be discussed with the Drainage Board to see if they want to change the ordinance.

Attorney Doll stated he thinks Bobby Howard needs to explain it both here and at the Drainage Board so everyone can understand what he is talking about thoroughly and then either this Board can initiate a modification of the ordinance or the Commissioners can. He added they are having drainage problems arise and in some of the cases they have bond posted but the County hasn't accepted the drainage yet so they aren't fixing anything in those subdivisions because they haven't been accepted it yet.

Mrs. Rector stated right now the Commissioners are allowing a lot of modifications to the time period of getting the streets put in because construction has slowed down but you still may have a subdivision setting there that has fifty homes built in it and the developer is getting a relaxation of time and not putting in the streets, sidewalks and drainage but people are living there. She asked at what point do they stop giving the developers a break by not getting the improvements into someone's lot who has already spend \$75,000 for the lot and then built a house and still not have the street completed or a sidewalk.

Larry Willis stated so they are building in upstream from the retention pond but they are not putting the flow ways in to get to the pond.

Mrs. Rector stated one of them is Wyngate Subdivision. She stated the back portion has never been final platted and that is where the retention pond is. She stated it is becoming a problem.

Mike Moesner stated five years is a long time.

Mrs. Rector stated and they are getting modifications because they go with the streets and she thinks they need to separate the drainage from the streets on time periods.

Attorney Doll stated and perhaps use Bobby Howard's formula to keep up with the flow line and not have houses being flooded out.

Mrs. Rector stated she is trying to work with Bobby Howard to help with the drainage situation.

Being no other business the meeting adjourned at 8:10 p.m.

Guy Gentry, President

ATTEST:

Sherri Rector, Executive Director